

ARBITRATION OF DIFFERENCES RESPECTING SOVEREIGNTY OVER ISLAND OF PALMAS

Special agreement signed at Washington January 23, 1925

Senate advice and consent to ratification February 10, 1925

Ratified by the President of the United States March 2, 1925

Ratified by the Netherlands March 3, 1925

Ratifications exchanged at Washington April 1, 1925

Entered into force April 1, 1925

Proclaimed by the President of the United States April 2, 1925

*Terminated April 4, 1928*¹

44 Stat. 2007; Treaty Series 711

The United States of America and Her Majesty the Queen of the Netherlands;

Desiring to terminate in accordance with the principles of international law and any applicable treaty provisions the differences which have arisen and now subsist between them with respect to the sovereignty over the Island of Palmas (or Miangas) situated approximately fifty miles southeast from Cape San Augustin, Island of Mindanao, at about five degrees and thirty-five minutes (5°35') north latitude, one hundred and twenty-six degrees and thirty-six minutes (126°36') longitude east from Greenwich;

Considering that these differences belong to those which, pursuant to Article I of the Arbitration Convention concluded by the two high contracting parties on May 2, 1908,² and renewed by agreements dated May 9, 1914,³ March 8, 1919,⁴ and February 13, 1924,⁵ respectively, might well be submitted to arbitration;

Have appointed as their respective plenipotentiaries for the purpose of concluding the following special agreement;

The President of the United States of America: Charles Evans Hughes,
Secretary of State of the United States of America, and

¹ Date of decision of arbitrator that "The Island of Palmas (or Miangas) forms in its entirety a part of Netherlands territory."

² TS 519, *ante*, p. 62.

³ TS 617, *ante*, p. 67.

⁴ TS 641, *ante*, p. 71.

⁵ TS 682, *ante*, p. 73.

Her Majesty the Queen of the Netherlands: Jonkheer Dr. A. C. D. de Graeff, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington;

Who, after exhibiting to each other their respective full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

The United States of America and Her Majesty the Queen of the Netherlands hereby agree to refer the decision of the above mentioned differences to the Permanent Court of Arbitration at The Hague. The arbitral tribunal shall consist of one arbitrator.

The sole duty of the arbitrator shall be to determine whether the Island of Palmas (or Miangas) in its entirety forms a part of territory belonging to the United States of America or of Netherlands territory.

The two Governments shall designate the arbitrator from the members of the Permanent Court of Arbitration. If they shall be unable to agree on such designation, they shall unite in requesting the President of the Swiss Confederation to designate the arbitrator.

ARTICLE II

Within six months after the exchange of ratifications of this special agreement, each Government shall present to the other party two printed copies of a memorandum containing a statement of its contentions and the documents in support thereof. It shall be sufficient for this purpose if the copies aforesaid are delivered by the Government of the United States at the Netherlands Legation at Washington and by the Netherlands Government at the American Legation at The Hague, for transmission. As soon thereafter as possible and within thirty days, each party shall transmit two printed copies of its memorandum to the International Bureau of the Permanent Court of Arbitration for delivery to the Arbitrator.

Within six months after the expiration of the period above fixed for the delivery of the memoranda to the parties, each party may, if it is deemed advisable, transmit to the other two printed copies of a counter-memorandum and any documents in support thereof in answer to the memorandum of the other party. The copies of the counter-memorandum shall be delivered to the parties, and within thirty days thereafter to the Arbitrator, in the manner provided for in the foregoing paragraph respecting the delivery of memoranda.

At the instance of one or both of the parties, the Arbitrator shall have authority, after hearing both parties and for good cause shown, to extend the above mentioned periods.

ARTICLE III

After the exchange of the counter-memoranda, the case shall be deemed closed unless the Arbitrator applies to either or both of the parties for further written explanations.

In case the Arbitrator makes such a request on either party, he shall do so through the International Bureau of the Permanent Court of Arbitration which shall communicate a copy of his request to the other party. The party addressed shall be allowed for reply three months from the date of the receipt of the Arbitrator's request, which date shall be at once communicated to the other party and to the International Bureau. Such reply shall be communicated to the other party and within thirty days thereafter to the Arbitrator in the manner provided for above for the delivery of memoranda, and the opposite party may if it is deemed advisable, have a further period of three months to make rejoinder thereto, which shall be communicated in like manner.

The Arbitrator shall notify both parties through the International Bureau of the date upon which, in accordance with the foregoing provisions, the case is closed, so far as the presentation of memoranda and evidence by either party is concerned.

ARTICLE IV

The parties shall be at liberty to use, in the course of arbitration, the English or Netherlands language or the native language of the Arbitrator. If either party uses the English or Netherlands language, a translation into the native language of the Arbitrator shall be furnished if desired by him.

The Arbitrator shall be at liberty to use his native language or the English or Netherlands language in the course of the arbitration and the award and opinion accompanying it may be in any one of those languages.

ARTICLE V

The Arbitrator shall decide any questions of procedure which may arise during the course of the arbitration.

ARTICLE VI

Immediately after the exchange of ratifications of this special agreement each party shall place in the hands of the Arbitrator the sum of one hundred pounds sterling by way of advance of costs.

ARTICLE VII

The Arbitrator shall, within three months after the date upon which he declares the case closed for the presentation of memoranda and evidence, render his award in writing and deposit three signed copies thereof with the

International Bureau at The Hague, one copy to be retained by the Bureau and one to be transmitted to each party, as soon as this may be done.

The award shall be accompanied by a statement of the grounds upon which it is based.

The Arbitrator shall fix the amount of the costs of procedure in his award. Each party shall defray its own expenses and half of said costs of procedure and of the honorarium of the Arbitrator.

ARTICLE VIII

The parties undertake to accept the award rendered by the Arbitrator within the limitations of this special agreement, as final and conclusive and without appeal.

All disputes connected with the interpretation and execution of the award shall be submitted to the decision of the Arbitrator.

ARTICLE IX

This special agreement shall be ratified in accordance with the constitutional forms of the contracting parties and shall take effect immediately upon the exchange of ratifications, which shall take place as soon as possible at Washington.

In witness whereof the respective plenipotentiaries have signed this special agreement and have hereunto affixed their seals.

Done in duplicate in the City of Washington in the English and Netherlands languages this 23d day of January, 1925.

CHARLES EVANS HUGHES [SEAL]

DE GRAEFF [SEAL]